

# Notice of Allowability

Application No.

09/537,372

Examiner

Siegfried E. Chencinski

Applicant(s)

GROVEMAN ET AL.

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/01/2006.
2. ☒ The allowed claim(s) is/are 1-12, 16-18, 21-28, 32 and 33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 5/12/2006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

HYUNGSO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3000

## DETAILED ACTION

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney David Gleason on May 12, 2006.

The application has been amended as follows:

As per claim 6, the claim has been changed to read

- - The method as in claim 1, wherein the establishing step includes a regression analysis which results in a tracking basket that achieves an  $r^2$  value, relative to the underlying index, above a predetermined value, wherein the  $r^2$  (r squared) value is a measurement of how closely a portfolio's performance correlates with a performance of the underlying index. - -

As per claim 11, line 2, the word "substantially" has been deleted.

2. The following is an examiner's statement of reasons for allowance: The claims are allowable because:

- the use of a correlation to an underlying index within a prescribed range in a method for actively managing an account through volatility arbitrage and harvesting, as recited in independent claim 1;
- a software program contained on a computer-readable medium which, when executed within a digital computer, causes the computer to identify one or more put options which, together with the selection of options to sell, results in a net delta of a portfolio which includes the tracking basket, the selection of options to sell, and the identified put options which is below a threshold value, as recited in independent claim 32; and

Art Unit: 3628

- performing a skew analysis on at least a portion of the equities in the tracking basket over one or more maturity periods to identify a first set of options each commanding a premium;
- identifying a second set of options each of which has a relative implied volatility which is greater than its historical volatility in a given maturity period;
- balancing the implied volatility percentage of the options in the first set against the relative implied volatilities of the options in the second set to identify a selection of options to sell; and
- purchasing a long put against the underlying index for an amount which is not substantially greater than the premium raised, as recited in independent claim 33,

are not found in the closest prior art of Kolb (Kolb, Robert W., Futures, Options, & Swaps, 3<sup>rd</sup> Ed., 1999), Tull, Jr. et al. (US Patent 5,946,667) and Chance (Chance, Don M., An Introduction to Derivatives, 4<sup>th</sup> Ed., 1998) found by the examiner.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Siegfried E. Chencinski whose telephone number is 571-272-6792. The examiner can normally be reached on 9AM - 6PM.

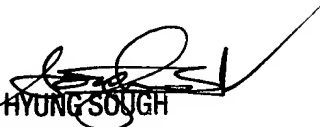
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEC

May 12, 2006

  
HYUNG SOUGH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGICAL CENTER